IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

Crl.MC.No. 1881 of 2007()

AGAINST THE ORDER DATED 30/03/2007 IN CRL.MP 888/2007 IN CRA.222/2007 of SESSIONS COURT, ALAPPUZHA

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PETITIONER: ACCUSED

THOMAS THOMAS,PROPRIETOR, CHOICE HOME APPLIANCES, IDINKILLAM POST, KAVUMBHAGOM VAZHI,THIRUVALLA.

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS: RESPONDENTS COMPLAINANT AND STATE

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1. G.RAMACHANDRAN,MUNDUPARAMBIL, AMICHAKARI MURI,CHAMPAKULAM VILLAGE,CHAMPAKULAM POST.

2. STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1881 of 2007

Dated this the 12th day of June, 2007

ORDER

Petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. The cheque is for an amount of Rs.2,50,000/-. The petitioner preferred an appeal and in the appeal, the sentence is suspended subject to two conditions. The petitioner claims to be aggrieved because of the onerous nature of the conditions imposed.

2. The conditions imposed are:

i) The petitioner must execute a bond for Rs.5 lakhs;

ii) The petitioner must deposit an amount of Rs.50,000/- within a period of one month.

That period has later been extended till 30.05.2007. The petitioner is unable to raise the amount. He has not paid any part of the amount. He has not appeared before the trial court. The learned counsel for the petitioner submits that the petitioner is laid up and is not able to raise the amount of Rs.50,000/-. He has been successful in raising only an amount of Rs.20,000/-. He is willing to deposit that amount straight away before the learned Magistrate if a breathing time of 10 days is given. He further submits that the bond amount fixed is also grossly excessive and unnecessary. That may be suitably reduced.

The learned counsel for the petitioner further submits that the petitioner shall get ready for hearing in the appeal itself and the learned Magistrate may be directed to dispose of the appeal to avoid the unsavory predicament of the petitioner being forced to undergo the sentence even before his appeal is disposed of.

3. Having considered all the relevant inputs, I am satisfied that appropriate directions can be issued.

4. This Crl.M.C is, in these circumstances, allowed in part. The petitioner shall deposit an amount of Rs.20,000/- (Rupees Twenty thousand only) within a period of 10 days from this date. He shall execute a bond for Rs.1 lakh with two solvent sureties each for the like sum. The petitioner shall deposit the balance amount of Rs.30,000/- (Rupees Thirty thousand only) within a further period of one month. If he is not able to make the deposit, the petitioner can apply to the learned Sessions Judge, within 10 days from this date, for an early out of turn disposal of the appeal itself, in which event, the learned Sessions Judge shall ensure that the appeal is disposed of within a period of 40 days from this date.

(R.BASANT, JUDGE)

rtr/-